

From: James Walton
To: Microsoft ATR
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Subject: Protest of current Microsoft Settlement under the Tunney Act

Being American I have little time for my own activities etc... such as I have has only marginally followed this case as it convolutedly floundered through the wrangling of countless legal issues and needs.

This complaint thus will be grounded more in concepts than in hard nosed legal study of the PFJ. It is just a blurb and only icing on the cake of issues which I find so disturbing in Microsoft's business practices and it's skillful use of legal gray areas.

Concept 1. Anything which protects, must protect all. If it protect only a few then it must do so because by protecting the few it better promotes the protection of all. This is Insurance folks. Statistics says that you get better control over variance by looking at an entire population. By giving a small cost to all you can provide for the large losses of the few. It is simple it is conceptual and thus almost poetic. thus by definition it will not work that way in the real world with competition and snake oil salesmen and such. Enter the regulator.

Insurance is not so fair or simple as it's concept.

So how does a regulator Insure the protection/benefit of the many and encourage their greatest benefit can be received for the cost?

Standards, requirements, rules and laws. A mortgage lender must give an APR to all clients and show them how much interest they will pay over the life of a loan. Fairness to inform but the final choice to move forward is still in the hands of the many. Take this requirement out and we are getting slighted for 10% loans that claim 4% interest with insane upfront fees that may just be added to the principle to lengthen the payoff and increase the APR.

You must regulate to prevent abuse in many aspects of competition. competitor is not moral left to it's own virtues. It does what get's it the greatest profits. You must regulate to insure it does not take profit at the price of people.

The largest conceptual issue in the Microsoft monopoly trust is that no one can get their APR from Microsoft. We don't know the terms we can't see the amortization's behind the facade of our loan. Or the final payout of our insurance benefit and what clauses may negate us even getting that benefit in the first place.

Microsoft uses the law like any company to make it's own corporate iron curtain about it's software in which it holds the copyright and patent and control of any would be viewer. The only standards are those that Microsoft creates for it's own products and interests. The only "openness" is the legalese you are expected to read before using any of this software as a licensee.

The OS is the bedrock of it all. Every thing that Microsoft has become it has grown from the control of that OS in the hands of a huge captive audience. And like any company a captive audience is good, the best, it's a varitable goldmine. One does not let them cross the picket lines into other pastures if one can prevent it. And so we have the windows API's and the source code itself which are company products none may view. thus those who know the OS better work for the company and can best design products to work with it. This is claimed to be their legal patent copyright cost of research and mindshare. But this is an unlevel playing field. How can your app compete against an app designed for that OS with all the OS's secrets plummed. How can you fight such a battle if the software product you compete against can be given away for free while you must charge 20 dollars just to stay afloat? This they call survival of the fittest? Not in my backyard. This is feeding chaos your children. An OS must have known methods within it it for use, equal to all open to all and unrestricted to any. The API's at least should be available to the software industry and the Microsoft settlement does not go far enough in this.

A Goliath can live long but it can stumble and it can spawn many David's.

WordPerfect cannot compete, Netscape cannot compete, Linux is yet new and already Microsoft has honed in on the many threats this suite of David's brings forth.

I care not about monetary fines or structural breakup of Microsoft. THESE ISSUES DO NOTHING TO ADDRESS THE BASIC FLAW THAT MICROSOFT SHOWS AGAIN AND AGAIN.

Microsoft in many ways is like the water which all other software plant's must grow from. They are the medium. But they cast their own seeds on that medium and their seeds grow quickest as they know the soils composition and are designed to use it most effectively.

The only true breakup that will be affective is to change long term protectionism in patents and copyright for software which is a rapidly changing creature dependent on the sharing of information for greatest creative use. Everytime we invent another stale wheel of code we have failed to use someone's talent to truly innovate and the spirit and purpose of patent or copyright law is lost. There must be no obstruction to mindshare. I am yet poorly skilled with items such as Linux but the concepts

which allowed such things to flower are so similar to my own and to the ideals of the constitution's founder's. Let those who create get there due, but not too long and not at horrid control of all others. Let there creation breed new uses and creations as swiftly as possible and this is the golden ring of innovation.

You will never force Microsoft to open source. But you could force ALL API's open for the use and learning of all programmer's and thus provide more rapid development and innovation.

Openness, freedom of use without legal restraint or restriction. True fair use true ownership not a license to lease. Freedom to take apart and put together in different ways and forms. Freedom to think for ones self how best to get to a goal without legal restraint or black boxes of code in between.

The real world is doubtless impossible to simplify in such a way. It is ever changing and complex. But this country is not changing with it's technology and it's status quo is now like a field of icebergs adrift about a foolish Titanic. The law is vast and cumbersome thus requiring ever more lawyers. Much like the IRS and it's ever increasing rules of accounting. The system no longer does what it was meant to.

I protest the current Microsoft Settlement on the grounds that it does not give programmers the knowledge they need nor the freedom to use that knowledge to build their own software products on the competitive level of Microsoft who know's it's products and can even develop those products to NOT work with an opponents products. Standards, openness free use of API at least.

Innovation requires freedom. This is the basis of our constitution. That constitution was also corrupt and it's flaw's are still seen today in the poverty of the minority. Our law is binding it can provide freedom to some and cage other's. How many decades went by with such flaws allowed. How many such flaws still remain empowering some minorities while potentially enslaving the very masses.

Make Microsoft share. Throw down their curtain's and let us see the machine's beneath and learn how to better use them for the good of all.

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